

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOHN OLIVER EDWARDS)	
)	
Plaintiff)	
)	
vs.)	Case No.: C-1-01-582
)	
IOF FORESTERS SEVERANCE)	
PAY PLAN et al.)	
)	
Defendants)	

REPLY TO DEFENDANT’S OPPOSITION REGARDING MOTION TO STRIKE

Now comes John Edwards and replies to the Defendant IOF’s Opposition to Plaintiff’s Motion to strike defendant’s evidentiary documents except R. 36. The Defendant states that it is entitled to discovery of information relevant to Plaintiff’s claim for a breach of fiduciary duty. The Defendant does not state what evidentiary documents it believes are related to this breach of fiduciary duty claim.

However, Mr. Edward’s deposition testimony is totally unrelated to the breach of fiduciary duty claim, since he did not know the fiduciary, had no personal experience with the fiduciary, and there were no questions posited to Mr. Edwards on this issue in the deposition. This deposition is wholly inappropriate in the record and should be stricken.

The Defendant is incorrect in its statement that there is nothing pending before the Court that warrants the striking of documents. The Defendant has requested the Court dismiss a specious counterclaim that it has not bothered to even allege a basis for the Court’s jurisdiction. The trial court has control over its docket and the deposition was and is totally unnecessary to

resolve the benefits and breach of fiduciary duty claim. Nowhere does the Defendant even suggest that the deposition is related. It is not, and should be stricken.

Wherefore, the Plaintiff respectfully requests that the Court strike Edwards' deposition testimony and any other evidentiary documents presented by the Defendant that the Defendant has not identified as related to either the benefits claim or the breach of fiduciary duty claim. These documents were and are unnecessary to the resolution, and are of no value to the Sixth Circuit in its review. It will simplify the record and direct the Sixth Circuit to the true issues before it.

Respectfully submitted,
THE PEREZ LAW FIRM CO., L.P.A.

By: /s/ Robert Armand Perez Sr.
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this has been served on the attorney for the Defendants with the electronic filing of this Order on this June 30, 2004 at:

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/s/ Robert Armand Perez Sr.
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